

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

BRUCE MCCOY,

Plaintiff,

v.

GENERAL MOTORS LLC and
ED MORSE AUTOMOTIVE LLC,

Defendants.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 4:21-CV-979

Jury Demand

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS:

1. General Motors LLC (“GM LLC”) and Ed Morse Automotive LLC d/b/a Freedom Chevrolet Buick GMC by Ed Morse (“Ed Morse Automotive”) (collectively, “Defendants”) are defendants in a civil action commenced on May 5, 2021 in the 96th Judicial District Court in and for Tarrant County, Texas, entitled *Bruce McCoy v. General Motors LLC and Ed Morse Automotive LLC*, Cause No. 096-325062-21 (the “State Court Action”). Pursuant to Civil Rule 81 of the United States District Court for the Northern District of Texas Local Rules, copies of (1) Plaintiff’s Original Petition with Attached Request for Disclosure to Defendant (the “Original Petition”); (2) Citation to GM LLC; (3) Citation to Ed Morse Automotive LLC; (4) Return of Citation for Ed Morse Automotive LLC; (5) Return of Citation for GM LLC; (6) GM LLC’s Objections, Special Exceptions, and Original Answer; (7) Ed Morse Automotive LLC’s Original Answer; (8) Plaintiff’s First Amended Petition with Attached Requests for Disclosure to Defendant (the “First Amended Petition”); (9) Motion for Withdrawal and Substitution of Counsel; (10) Proposed Order Granting Motion for Withdrawal and Substitution of Counsel; (11) Executed

Order Granting Motion for Withdrawal and Substitution of Counsel; and (12) Court Docket Sheet in that action are attached hereto and constitute all process, pleadings, and orders served in the State Court Action. *See Index of State Court Documents attached hereto.* The address for the 96th Judicial District Court in and for Tarrant County, Texas is as follows: Tom Vandergriff Civil Courts Buildings, 100 North Calhoun Street, Fort Worth, Texas 76196.

2. Plaintiff in the State Court Action is Bruce McCoy. Plaintiff is represented by Arnesia B. Davis, Arnesia B. Davis, PLLC, P.O. Box 1493, DeSoto, Texas 75115. GM LLC and Ed Morse Automotive are the defendants in the State Court Action and are represented by Deron L. Wade and Rebekah L. Hudgins, Dykema Gossett PLLC, 1717 Main Street, Suite 4200, Dallas, Texas 75201. There are no other parties to this civil action.

3. GM LLC requested a trial by jury in the 96th Judicial District Court in and for Tarrant County, Texas, and the jury fee has been paid.

4. The district courts of the United States have original jurisdiction over this action based on diversity of citizenship among the parties, in that every defendant is now, and was at the time the action was commenced, diverse in citizenship from every plaintiff. No defendant is, or was at the time the suit was commenced, a citizen of the State of Texas.

6. As stated in Plaintiff's Original Petition, Plaintiff Bruce McCoy is an individual who now and at the time this action was commenced resided in Dallas County, Texas. Thus, Plaintiff is now, and was at the time this action was commenced, a citizen of the State of Texas.

7. Defendant GM LLC is a Delaware limited liability company. Accordingly, for purposes of the Court's diversity jurisdiction, GM LLC's citizenship is that of each of its members. *See Servicios Comerciales Lamosa, S.A. De C.V. v. De La Rosa*, 2018 U.S. LEXIS 52841, *9 (N.D. Tex., Mar. 29, 2018). The only member of GM LLC is General Motors Holdings LLC.

General Motors Holdings LLC is also a Delaware limited liability company. The only member of General Motors Holdings LLC is General Motors Company, a Delaware corporation with its principal place of business in Michigan. Thus, GM LLC is now, and was at the time this action was commenced, a citizen of Delaware and Michigan and of no other state.

8. Defendant Ed Morse Automotive is a Texas limited liability company. Accordingly, for purposes of the Court's diversity jurisdiction, Ed Morse Automotive's citizenship is that of each of its members. *See Servicios Comerciales Lamosa, S.A. De C.V.*, 2018 U.S. LEXIS 52841 at *9 ("a limited liability is a citizen of every state in which all of its members are citizens. The state of organization and principal place of business are irrelevant insofar as determining the citizenship of a limited liability company"). Ed Morse Automotive has two members—TJMIII LLC and Morse Operations, Inc. TJMIII LLC is a Florida limited liability company. It has one member—Morse Operations, Inc. Morse Operations, Inc. is a Florida corporation with its principal place of business in Florida. Thus, Ed Morse Automotive is now, and was at the time this action was commenced, a citizen of Florida and of no other state.

9. On July 20, 2021, Plaintiff filed his First Amended Petition. It was in the First Amended Petition that Plaintiff first included an amount in controversy. As reflected in the First Amended Petition, Plaintiff is putting more than \$75,000 in damages at issue in this action. Specifically, Plaintiff seeks monetary relief in excess of \$1,000,000. *See First Amended Petition*, IX.e. and X.d. Therefore, the amount of damages that has been put at issue in this action by Plaintiff and the amount in controversy in this action exceeds \$75,000.

10. Removal of the State Court Action is proper pursuant to 28 U.S.C. § 1441, since it is a civil action brought in a state court, and the federal district courts have original jurisdiction over the subject matter under 28 U.S.C. § 1332(a) because Plaintiff and Defendants are diverse in

citizenship. This Notice of Removal is timely, as it is being filed within thirty (30) days of receipt of the First Amended Petition, which is the first pleading from which it is ascertainable that the action is one which is removable. *See* 28 U.S.C. § 1446(b)(3).

11. WHEREFORE, Defendants GM LLC and Ed Morse Automotive, pursuant to these statutes and in conformance with the requirements set forth in 28 U.S.C. § 1446, remove this action for trial from the 96th Judicial District Court in and for Tarrant County, Texas to this Court on this 19th day of August, 2021.

Respectfully submitted,

/s/ Deron L. Wade

DERON L. WADE

State Bar No. 24008220

E-Mail: dwade@dykema.com

REBEKAH L. HUDGINS

State Bar No. 24101960

E-Mail: rhudgins@dykema.com

DYKEMA GOSSETT PLLC

1717 Main Street, Suite 4200

Dallas, Texas 75201

Telephone: (214) 462-6400

Facsimile: (214) 462-6401

**ATTORNEYS FOR DEFENDANT
GENERAL MOTORS LLC AND
ED MORSE AUTOMOTIVE LLC**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on all counsel of record according to the Federal Rules of Civil Procedure on this the 19th day of August, 2021.

/s/ Deron L. Wade

DERON L. WADE